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INR/RES (RWARNER)
SANTO DOMINGO FOR FCS AND FAS
TREASURY FOR ERIN NEPHEW

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JM, XL

SUBJECT: JAMAICA: INVESTMENT CLIMATE STATEMENT 2009

REF: STATE 123907

11. Response to reftel request for the investment climate statement.

Openness to Foreign Investment

12. The Government of Jamaica (GOJ) seeks to attract foreign direct investment and markets itself to companies in Europe, North America and the Caribbean region. The GOJ encourages foreign investment as a source of development and has no policies or regulations that reserve certain sectors exclusively for Jamaicans. Prime Minister Bruce Golding (Jamaica Labor Party), elected in September 2007, after 18 years of rule by the People's National Party, publicly warns of the negative consequences of red tape as a hindrance to potential foreign investment.

13. Numerous measures which once inhibited foreign investment, such as the Foreign Exchange Control Act and the list of areas reserved for local investment only, have been eliminated. Thus, Jamaica does not have any legal impediment to direct foreign investment and applies the principle of national treatment to foreign investors.

14. With the investment landscape reformed, attention has turned to the reduction of processing and approval times for investment-related applications. In particular, USAID has been providing assistance to the GOJ and the Private Sector Organization of Jamaica for a Regulation, Legislation and Process Improvement Project (LEGS and REGS) to remove some of the obstacles to doing business in Jamaica. The project staff is currently revising an existing Developer's Manual to provide updated information on the administration, legislation, regulation and requirements involved in the development approval process in Jamaica. The manual has been revised, but there is still much streamlining required in achieving the Prime Minister's 90- day turnaround deadline for approvals.

15. The LEGS and REGS Project has been paying dividends, as a 2009 World Bank Doing Business Report listed Jamaica in the top ten countries for the Latin America and Caribbean Region in which it was easiest to do business. Jamaica ranked above its regional peers and compared favorably with OECD countries in areas such as starting a business and hiring and firing workers. It should be mentioned that, while Jamaica's Redundancy Act makes it expensive to cut staff due to the relatively high severance payments tied to length of service (see Labor section below), the Jamaican system still ranks higher than its regional peers in the 2009 World Bank Ease of Doing Business Report for the category of Hiring Workers. It only scores lower than its peers in the subcategory of Firing Costs.

16. The Companies Act and the Securities Act govern acquisitions, mergers and takeovers for publicly traded companies. In 1996, the Securities Act was revised to bring it in line with international regulations. The takeover code was redesigned to ensure the integrity of the securities market while protecting minority shareholders. Jamaica's legal system is based on English common law principles and rules covering the enforceability of contracts are based thereupon. The Jamaican judicial system therefore recognizes and upholds the sanctity of contracts. However, in the 2009 World Bank Doing Business Report, Jamaica slipped 25 rank positions for Enforcing Contracts, falling from 102 in 2008 to 127 in 2009. There are no limits on foreign ownership or control, and the Embassy is not aware of any economic or industrial policy that has discriminatory effects on foreign investors.

17. Foreign investors are generally granted national or Most Favored Nation treatment, subject to the rules of their Bilateral Investment Treaties (BITS). There are no screening mechanisms for foreign investments, but if investors apply for government incentives, they could be required to meet some basic pre-requisites and due diligence may be done by the approving agency. This process is not discriminatory and is not intended to impede investment. Jamaica has also undertaken a comprehensive program of trade and financial liberalization, and no sector remains closed to foreign investment. However, projects that affect national security, have a negative impact on the environment, or involve sectors such as life insurance, media or mining are subjected to regulation and certain restrictions.

18. Jamaica's privatization program is open to participation by foreign investors, except for those that are on the restricted list due to national security concerns. The National Investment Bank,

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which administers privatization, is mandated to ensure that the process is fair and transparent. However, in some privatization transactions, the participation of local investors may lead to added points in the scoring of proposals. When large entities are being privatized, advertisements are placed in international newspapers such as the Financial Times, New York Times and Wall Street Journal to attract foreign investors. An information memorandum accompanies privatization proposals and includes the specific requirements under which bidders are allowed to participate and the criteria by which proposals will be evaluated. Foreign investors have won most of the privatization bids in the last five years. The government is currently reviewing some of the remaining parastatals with an eye to divestiture.

19. The country is party to both multilateral and bilateral treaties, which provide for non-discrimination. Local laws do not distinguish between local and foreign investors. The Embassy is not aware of any discrimination against foreign investors at the time of initial investment or after the investment is made. However, under the Jamaican Companies Act, investors are required either to establish a local company or to register a branch office of a foreign-owned enterprise. Branches of companies incorporated abroad must also register with the Registrar of Companies if they intend to operate in Jamaica. The Companies Act, which came into effect in February 2005, allows foreign companies to hold lands without registering in Jamaica. There are no laws or regulations requiring firms to adopt articles of incorporation or association, which limit or prohibit foreign investment, participation or control. The Embassy is not aware of any other ways private firms could restrict foreign investment.

10. Foreign direct investment (FDI) flow was USD 779 million in 2007, down from 850 million in 2006 according to the United Nations' World Investment Report. The dynamism in FDI was most evident in the construction, telecommunications, tourism, and mining sectors. Despite significant foreign investment over the years, Jamaica's annual GDP growth has been an anemic 1 percent on average, indicating that foreign investment does not directly translate into GDP growth. Jamaica appears to lack the absorptive capacity to benefit from investments requiring high skilled employment, and a significant portion of inputs are not sourced locally.

¶11. The introduction of competition in the telecommunications sector has attracted three mobile providers and multiple internet service providers including three licenses that are being issued to wireless service providers. The GOJ has issued two additional fiber-optic licenses to reduce the cost of Internet rates. Highway 2000, Jamaica's first toll road, is being constructed by French company Bouygues under a build, operate, and transfer (BOT) model. Two segments of the project, costing over USD 500 million, are completed. A third leg connecting Kingston and the resort area of Ocho Rios should be completed by end of 2010.

¶12. With the onset of the global economic crisis, there has been significant slowdown in some of Jamaica's critical foreign exchange earners. Growth in the bauxite and tourism sectors has slowed. The construction boom of the last three years, which brought in over USD 1 billion in FDI in the accommodation sector, has weaned. Future projects in the sector have been postponed until the global economic climate improves. This includes investments from Spanish hotel chains and the high-end Harmony Cove Tourism Development. A Brazilian company, Infinity BioEnergy, is in negotiations to acquire the assets of Jamaica's sugar industry.

Conversion and Transfer Policies

¶13. Jamaica has no restrictions on holding funds or on transferring funds associated with an investment, as the country liberalized its foreign exchange market in 1991. However, foreign exchange transactions must be conducted through authorized foreign exchange dealers, cambios and bureaux de change at market-determined rates. Foreign exchange is generally available, but companies tend to source large amounts of foreign exchange over a three to four day period. There are currently no plans to change the policies affecting investment remittances and there is no delay period currently in effect for remitting investment returns. There is no legal parallel market (tiered system) for foreign exchange following liberalization and there are no limitations on the inflow or outflow of funds for any transaction. Recently surveyed U.S. companies indicated no problems or delays in accessing foreign exchange or

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remitting investment returns.

Expropriation and Compensation

¶14. Property rights are protected under Section 18 of the Jamaican Constitution. Expropriation of land may take place under the Land Acquisition Act, which provides for compensation on the basis of market value. Expropriation can take place before compensation is paid, but interest for the period between the expropriation and the compensation settlement must be paid. According to the law, the purpose of any expropriation must be transparent, and compensation for expropriated property must be adequate. If informal negotiation on compensation fails, the investor has recourse in the courts. Jamaica has signed bilateral agreements for the reciprocal promotion and protection of investments with a number of countries, including the United States. The Embassy is not aware of any litigation between the Jamaican government and any private individual or company based on expropriation or on compensation for expropriation. There are currently no laws that force local ownership.

Dispute Settlement

¶15. Disputes between enterprises are handled in the local courts, but foreign investors can refer cases to the International Center for Settlement of Investment Disputes (ICSID). There have been cases of trademark infringements in which U.S. firms took action and were granted restitution in the local courts. The Jamaican Constitution provides for an independent judiciary with a three-tier court structure. Claims may be brought before the Magistrate or Supreme Court. Appeals on decisions made in these courts can be taken before the Court of Appeal and then to the Judicial Committee of the Privy Council in the United Kingdom. Plans were afoot for the Privy Council to be replaced by the Caribbean Court of Justice

(CCJ), which will consider and determine appeals in civil and criminal matters from common law courts within CARICOM member states. However, the then-opposition Jamaica Labor Party (JLP) opposed the process and took the case to the Privy Council which supported their position. If Jamaica were to replace the Privy Council with the CCJ it will likely require a national referendum, although it is not likely in the near-term. Jamaica has effective means for enforcing property and contractual rights through: (1) The Judgment and Awards (Reciprocal Enforcement) Act; (2) The Judgment (Foreign) (Reciprocal Enforcement) Act; (3) The Arbitration (Recognition and Enforcement of Foreign Awards) Act; and, (4) The Maintenance Orders (Facilities for Enforcement) Act. Under these acts, judgments of foreign courts are accepted and enforced in all cases where there is a reciprocal enforcement of judgment treaty with the relevant foreign state.

¶16. A number of disputes, involving foreign investors and GOJ, on the one hand, and foreign investors and a local association, on the other, arose during 2005. The first dispute, which is yet to be resolved as of early 2008, involves the implementation of a levy by the GOJ on in-coming telephone calls for a Universal Access Fund to finance computers and other information-related activities in Jamaican schools. However, U.S. long-distance telephone companies have been resisting the move and have requested that the Federal Communications Commission put pressure on Jamaica to desist from collecting the fees.

¶17. There is a Bankruptcy Act dealing with personal insolvency, a Companies Act dealing with corporate insolvency, and other statutes such as the Bills of Exchange and the Sale of Goods Acts dealing with commercial matters. There are also extensive common law principles, which are written and consistently applied. Under the bankruptcy laws, creditors can petition for an order against an individual or a winding up order against the company and will be entitled to share in the assets of the bankrupt on a pro-rata basis, after certain specified preferential creditors such as redundant employees. The claimant has the option of settling a claim in the currency in which the debt or obligation was incurred or in local currency.

¶18. Jamaica, a signatory to the International Center for Settlement of Disputes (ICSID) since 1965, accepts international arbitration of investment disputes between Jamaicans and foreign investors. Local courts also recognize and enforce foreign arbitral awards. International arbitration is also accepted as a means for settling investment disputes between private parties. However, acting in its

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role as an international tribunal, the CCJ will interpret and apply the Revised Treaty of Chaguaramas, including the CARICOM Single Market and Economy. There is no formal domestic arbitration body in Jamaica, but disputing parties can use arbitration proceedings to settle their disputes. These proceedings would be guided by the Arbitration Act which sets out the procedures disputing parties would follow once they agree on arbitration and is read in conjunction with the Arbitration Clauses Protocol Act, which in turn makes reference to how foreign arbitral awards will be addressed. If a foreign investor's country has a BIT with Jamaica, then the rules of this treaty would apply. Other foreign investors are given national treatment and civil procedures would apply.

Performance Requirements and Incentives

¶19. Jamaica is a signatory to the World Trade Organization Agreement and is in compliance with most Uruguay Round obligations, including the TRIMS Obligations. There are no performance requirements imposed as a condition for investing in Jamaica. The GOJ offers a number of incentives to attract investments, particularly those that generate foreign exchange and expand employment. Some current incentives are non-compliant with the WTO Agreement on Subsidies and Countervailing Measures and should have been phased out by 2003, but have not been. However, Jamaica was granted an extension by the WTO to revise its incentives and is awaiting reports from the World Bank-affiliated Foreign Investment Advisory Service and a local Tax

Review Committee to complete the process. Chief among the current incentives are:

(a) The Export Industry Encouragement Act (EIEA) - entitles companies manufacturing products for export to non-CARICOM member countries benefits such as exemption from income and dividend taxes for up to ten years, and exemption from import duties on raw material and machinery during the incentive period. Service industries were included in 1990 and in 1996 the EIEA was amended to include companies that do not export 100 percent of their output.

(b) The Hotel Incentives Act - entitles hoteliers to income and dividend tax relief for up to ten years. Hoteliers may also receive an exemption from import duties for constructing or expanding hotels, but must have at least ten rooms and facilities for other activities. Income tax relief is granted for 15 years to hotels that meet certain qualifications including: having 10 to 350 rooms, facilities for holding conferences and operation by a qualified general manager. The Resort Cottages Incentives Act allows for income and dividend tax relief and duty-free importation of articles required to construct and equip resort cottages for up to seven years.

(c) The Motion Picture Industry Encouragement Law - motion picture producers can receive duty relief on imported goods for use in motion picture production as well as income tax exemption from the date of release or exhibition of each motion picture produced in Jamaica for a period of nine years. Producers are also granted a tax deduction of 70 percent of the capital expenditure incurred in acquiring facilities either in the year in which the cost is incurred or in any subsequent year at the option of the producer.

(d) Approved farmer status under the Income Tax Act - certified persons or companies engaged in growing food or seed crops, horticulture, aquaculture, tobacco and animal husbandry are eligible for income tax relief for up to ten years, renewable as well as concessionary duty rates on farm vehicles.

(e) The International Finance Company Act - available to finance companies conducting business solely with foreigners. With regard to Jamaican operations, non-residents must hold at least 95 percent of the loan capital. Profits of an approved corporate body are taxed at a rate of only 2.5 percent.

(f) The Shipping Incentives Act - approved shipping corporations are granted import duty and income tax concessions for a period of ten years.

(g) The Foreign Sales Corporation Act - provides exemption from income tax for five years for qualified income arising from foreign trade. U.S. law through the Tax Information Exchange Agreement (TIEA) reinforces this incentive.

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(h) The Industry Modernization Program (IMP) and Moratorium on Duties - under the IMP, companies are exempt from general consumption tax on capital goods acquired for modernization. The Minister of Finance may award a moratorium on import duties on capital items for up to three years to companies, which do not qualify under existing incentive legislation and have the potential to contribute significantly to foreign exchange earnings.

(i) Accelerated Depreciation - certified companies are allowed to deduct 50 percent of the full cost of new machinery in the year of purchase and a further 50 percent in the following year.

(j) Other Incentives - a number of development banks provide concessionary financing for projects. The Jamaican National EXIM Bank provides concessionary interest rate loans for trade financing, while the Development Bank of Jamaica offers reduced lending rates to the productive sectors. The National Investment Bank of Jamaica also provides equity and quasi-equity financing for key economic sectors listed under the National Industrial Policy.

¶20. Foreign investors and their investment are generally granted national treatment status, subject to the rules outlined in their BIT. In essence, Jamaica has no performance requirements, except for companies with Free Zone status, which must export at least 85 percent of their output. Foreign firms are allowed to participate in GOJ-financed or subsidized R&D programs on a national treatment basis. Work permits are granted by the Ministry of Labor for a specified period, but are subject to the individual obtaining a working visa from the Jamaican Consulate available in or near their home state. Since 2005, foreign nationals who are conducting business on short-term basis will not require a business visa once they will be in Jamaica for a period not exceeding thirty days. However, foreign nationals will need a business visa to enter Jamaica if they are conducting business for periods exceeding thirty days. Foreign nationals who need visas for entry to Jamaica will require a business visa to conduct business.

¶21. All importers are subject to the same procedures when trading in goods and services. To qualify for entry certificates, importers must obtain, inter alia, a supplier invoice, a certificate of value, and origin, a declaration of value and a bill of lading and sight. Products imported into Jamaica must also meet specific acts administered by the Jamaica Bureau of Standards. In December 2001, Jamaica imposed the International Organization for Standardization ISO date representation (yy/mm/dd) as the official format for trade, but date labels are still accepted in the traditional European style (dd/mm/yy). The Jamaican economy is relatively open, but some non-tariff barriers remain. For instance, the Veterinary Division requires certification from a U.S. federal agency for all products containing animal and animal by-products irrespective of quantity or form. Highly processed products such as cookies and chips therefore require certification from a government veterinarian. The Coffee and Coconut Industry Boards also have to issue import certificates for coffee beans and cooking oils, respectively, but importers can experience lengthy delays in obtaining these permits. Under intense pressure from farmers cooperatives, the GOJ instituted a 100 percent Common External Tariff (CET) plus an 80 percent Additional Stamp Duty (ASD), compounded to 260 percent, on whole chicken and leg-quarters and a number of imported vegetables.

Right to Private Ownership and Establishment

¶22. All private entities are entitled to establish and own business enterprises and engage in all forms of remunerative activity, subject to, inter alia, labor, registration and environmental requirements. Private entities are also free to establish, acquire and dispose of interests in business enterprises. Public and private enterprises have equal access to markets, credit and business operations, such as licenses and supplies. However, if the GOJ has to compete with the private sector, it will do so on a competitive basis so as to not distort the market.

Protection of Property Rights

¶23. The Jamaican Constitution guarantees property rights. Jamaica has a system of registered titles set out in the Registration of Titles Act, which recognizes and provides for the enforcement of secured interests in property by way of mortgage. It also

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facilitates and protects the acquisition and disposition of all property rights, though working through Jamaica's cumbersome bureaucracy can result in significant delays. In particular, it sometimes takes a long time for landowners to secure titles. Squatting, especially on crown (government) lands has also become a challenge in the last ten years. Jamaica is a member of the World Intellectual Property Organization (WIPO) and is a signatory of the Bern Convention. Jamaica and the U.S. have an Intellectual Property Rights Agreement and a BIT, which provide assurances to protect intellectual property. However, Jamaica remains a special 301 "Watch List" country, largely because the patent law is not compliant with the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). A Geographical Indications Act (GI) was passed in 2004 to protect products that originate from

localities where a particular quality or reputation is attributable to its geographical origin. General law provides protection for trade secrets. Protection against unfair competition is also provided by the general law and the Fair Competition Act.

¶24. The Copyright Act of 1993, as amended, complies with the TRIPS Agreement and adheres to the principles of the Bern Convention, and covers works ranging from books and music to computer programs. Amendments in June 1999 make explicit the provision of copyright protection on compilations of works such as databases and make it an offense for a person to manufacture or trade in decoders of encrypted transmissions. It also gives persons having rights in encrypted transmissions or in broadcasting or cable program services a right of action against persons who infringe their rights. The act needs to be amended to give effect to the provisions of the WIPO WCT and WPPT (Internet) Treaties to which Jamaica acceded in 2002. The Trademark Act of 1999 is also compliant with the TRIPS Agreement and provides the owner of registered trademarks exclusive rights for up to ten years, renewable. It provides for the protection of "well-known" marks under the Paris Convention. A TRIPS compliant Layout Designs Act has also been in effect since June 1999. The act provides protection for layout-designs for integrated circuits and gives the rights owner the exclusive right to reproduce, import, sell or otherwise commercially exploit the layout-design and to authorize other persons to do so. That right is in place for ten years and may be transferred by the rights owner.

Transparency of Regulatory System

¶25. A Fair Competition Act (FCA) was implemented in 1993 and is administered by the Fair Trading Commission. The main objective of the FCA is to prevent business interests and government policies from hindering the efficiencies to be gained from a competitive system. The FCA deals with misleading advertisements, price-fixing, collusion, unfair trading practices and interlocking directorships. To date the FTC has investigated over 5,000 cases, the majority of which are consumer protection related.

¶26. There are laws and policies covering taxation, labor, health and other issues to avoid distortions or impediments to the efficient mobilization and allocation of investment. However, investors argue that the Redundancy Act, which deals with severance payment, is a disincentive to investment funds. In 2001, the mandate of the Anti-Dumping and Subsidies Commission was expanded through the implementation of a Safeguards Act, which protects producers from import surges. The GOJ also established the Office of Utilities Regulation to act as regulator of the country's utilities.

¶27. Although there has been improvement in the approval process for investment projects, it can still take anywhere from three months for Free Zone projects to over a year for green-field projects. Having recognized the problem, the GOJ has intensified its efforts to reduce bureaucracy as well as improve transparency and customer service levels within the public sector. A Ministry of Development was established to deal with investment bottlenecks. As stated above, the private sector, GOJ and USAID have also joined forces to implement a project (LEGS and REGS) to identify and deal with key legislation, regulations and processes that constrain business. The project is currently addressing the reform process with regard to the approval for development and building permits. It should be noted that as a result of this work, Jamaica was the top reformer globally this year on Dealing with Construction Permits, in the World Bank Doing Business 2009 Report, improving its rank on that indicator by 25 spots to 49th place.

¶28. The Embassy is not aware of any informal regulatory processes

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managed by NGOs or private sector associations or of any private sector and/or GOJ effort to restrict foreign participation in industry standards-setting consortia or organizations. However, in December 2004, the Free Trade Commission (FTC) implemented a non-legislative code of conduct governing the petroleum industry. The mandates of this code place restrictions on property sales and contracts between marketing companies and retailers, and are

enforceable through fines levied by the FTC. Proposed legislation is available for public comment and submissions are generally invited from members of the public for items considered to be controversial.

The legal, regulatory and accounting systems are transparent and consistent with international norms, and Jamaica has adopted the new International Financial Reporting System.

Efficient Capital Markets and Portfolio Investment

¶29. Since the 1980s, Jamaica has initiated reforms aimed at fostering private sector activity and increasing the role of market forces in resource allocation. These reforms intensified in the 1990s, resulting in trade, financial and capital account liberalization. This has led to the availability of credit on market terms and foreigners are allowed to borrow freely on the local market at market-determined rates of interest. While some major financial products are still lacking, the private sector still has access to a variety of credit instruments.

¶30. Jamaica has an effective regulatory system established to encourage and facilitate portfolio investment. The Financial Services Commission and the Bank of Jamaica jointly regulate portfolio investment. At the end of September 2008, the country's four largest commercial banks had total assets amounting to over USD 6 billion or 90 percent of the entire assets of commercial banks. Five of the country's seven commercial banks, including the four largest, are foreign-owned. During the mid-1990s there was a meltdown in the financial sector often referred to as "FINSAC", but since 1998 there has been consolidation and increased output performance in the sector. Significant strides have also been made in terms of the regulatory framework, which are now in line with international standards. The non-performing loans portfolio as a percentage of the total asset base has moved from seven percent in 2000 to 2.4 percent at the end of September 2008.

¶31. Based on the Rule 404 of the Jamaica Stock Exchange (JSE), fully paid shares shall be free from any restriction on the right of transfer and from all liens. Two listed companies have clauses within their memoranda and articles of association that restrict foreign investors, but these predate the JSE. JSE listing arrangements allow for 20 percent of issued share capital to be listed, but there is no requirement that stipulates that this threshold must be maintained after listing. The rules of the JSE and the Security Acts also have specific provisions relating to the process of takeover and mergers, but these are general and, given that there are no specific provisions (except in the cases mentioned above) regarding restrictions to foreign participation, it follows that there are no specific measures designed to protect against hostile foreign takeovers.

Political Violence

¶32. Jamaica has had no incidents involving politically motivated damage to projects and/or installations. Crime poses a greater threat to foreign investments than do politically motivated activities. The resort city of Montego Bay experienced a day of social unrest in 2003, in response to alleged police excesses. The street demonstration, which included the blocking of roads, affected the flow of tourists between hotels and the airport. Violent crime, rooted in poverty, unemployment, and drug trafficking, is a serious problem in Jamaica, particularly in Kingston. Sporadic gang violence and shootings are concentrated in certain inner city neighborhoods, but can occur in other areas. Extortion is a serious problem in certain areas of the commercial district and on large construction projects - such as the Highway 2000 project.

Corruption

¶33. Jamaica has a Corruption Prevention Act (CPA), which established a Corruption Prevention Commission in 2003 to, among other things: (1) receive, examine and document the statutory declarations of

public sector workers; (2) receive and investigate any complaint regarding an act of corruption; and, (3) conduct investigation into acts of corruption, if satisfied there are reasonable grounds to do so. To date there has been no enforcement, as the commission lacks the capacity to enforce the filing of declarations. Recent reports suggest that non-compliance is running at over 30 percent. However, the commission will be working with the Director of Public Prosecution to have enforcement measures implemented. The Embassy is not aware of any disproportionate application of corruption measures against foreign investors, but some members of the private sector perceive that the law is not applied impartially among locals. During a recent panel discussion on governance, a GOJ Senator also stated that Jamaica had not done well in eliminating corruption from the public sector.

¶34. Jamaica is a signatory of the OECD Anti-Bribery Convention and has ratified the Inter-American Convention Against Corruption. Anti-corruption initiatives have been taken within the Jamaica Constabulary Force as well as some private sector organizations. Prosecutors also continue to take part in regional anti-corruption conferences, with one such conference developed by the United States Department of Justice (USDOJ). However, Jamaica is not a signatory to the UN Anticorruption Convention. The Embassy is not aware of any U.S. firm identifying corruption as an obstacle to foreign investment. Transparency International (TI) performed a formal study of corruption in 2003. The TI report identifies widespread political, petty, and narcotics-related corruption as being prevalent in Jamaica. According to Transparency International's Perception Index, the perception of corruption in Jamaica has worsened in the past three years. The island has slid from a score of 3.7 out of 10 in 2006, to 3.3 in 2007, down to 3.1 in 2008. This score places Jamaica in the same category as Benin, Gabon, Guatemala, and Mali.

¶35. Corruption may well be the single greatest concern among Jamaicans, most of whom believe it one of the root causes of the high crime rate. In the past year, 16 police officers have been arrested for alleged acts of corruption, but only one has been at senior level. Despite numerous allegations of public corruption, the last conviction of a politician on corruption charges was in ¶1981. In recent times only one politician has been arrested on charges of corruption; he is currently awaiting trial.

¶36. Under the Corruption Prevention Act (CPA), it is an offense to solicit or accept a bribe. Public servants can be imprisoned for up to ten years and fined as much as JMD ten million if found guilty of engaging in acts of bribery. Individuals and companies are also criminally liable if they bribe foreign public officials and can be prosecuted and face the same penalties. The legislation covers public officials who meet the JMD two million salary threshold and those working in sensitive positions such as police and military officers. However, it is well known that a number of public officials have been delinquent in complying with mandatory filing. The creation of the CPA could be viewed as evidence that GOJ officials are taking anti-corruption efforts seriously. However, financial constraints have crippled the commission's ability to fully execute its mandate of enforcing asset declarations. In 2007, The GOJ passed into law the Proceeds of Crime Act (POCA), a powerful legal tool that allows for both criminal and civil forfeiture and criminalizes money laundering related to narcotics offenses, fraud, firearms trafficking, human trafficking, terrorist financing and corruption, and applies to all property or assets associated with an individual convicted or suspected of involvement with a crime. More active enforcement of the POCA by the GOJ would certainly strengthen anti-corruption efforts.

¶37. U.S. investors should be aware of the U.S. provisions of the Foreign Corrupt Practices Act (FCPA) which, in general, prohibits corrupt payments to foreign officials for the purpose of obtaining or keeping business. See the U.S. Department of Justice website for more information. <http://www.usdoj.gov/criminal/fraud/fcpa/>

¶38. The CPA also contains provisions for the extradition of Jamaican citizens for crimes of corruption. In April 2002, Prime Minister Patterson tabled a code of conduct in Parliament for government ministers. The 49-point code covers such issues as conflict of interest and integrity in the conduct of public and private business. The agency responsible for combating corruption is the

Commission for the Prevention of Corruption. Other "watchdog" organizations operating in Jamaica include Transparency International, Jamaicans for Justice, Families Against State

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Terrorism and the Farquharson Institute of Public Affairs.

Bilateral Investment Agreements

¶39. Jamaica has investment treaties with the United States (Feb. 1994, which came into force in March 1997), Argentina (Feb. 1994), France (Jan. 1993), Italy (Sept. 1993), Germany (Sept. 1992), Netherlands (Apr. 1991), Switzerland (Dec. 1990), the United Kingdom (Jan. 1987), China (1998), Cuba (May 1997), Egypt (Feb. 1999), Indonesia (Feb. 1999) and Zimbabwe (Feb. 1999) and is presently negotiating bilateral investment agreements with South Korea, Costa Rica, Belgium, Russia and Canada. Jamaica has also signed and ratified double taxation agreements with the U.S., Canada, CARICOM, China, Switzerland, Germany, Norway, Sweden, Denmark and the United Kingdom.

OPIC and Other Investment Insurance Programs

¶40. The Overseas Private Investment Corporation has identified infrastructure, telecommunications, construction, tourism and renewable energy as areas where its programs can have an impact in Jamaica. OPIC political risk insurance can insure up to USD 40 million per project. OPIC also provides medium to long-term financing to ventures with significant U.S. participation. OPIC can normally guarantee or lend from USD 0.1 to 250 million per project. OPIC has historically committed more than USD 750 million in insurance and financing to support over 80 projects in Jamaica in industries such as construction, energy, telecommunications, and tourism. The country became a signatory to the Multilateral Investment Guarantee Agency in 1986 and ratified the agreement in ¶1987.

¶41. The foreign exchange market remained relatively stable for the first nine months of 2008, depreciating by 1.6 percent. However, by October the effects of the global financial crisis became evident, with the local currency slipping by over eight percent to the first week of December. The sharp depreciation has been underpinned by a confluence of demand and supply factors led by increased margin calls from overseas creditors. Demand pressures were also compounded by increasing Jamaican dollar liquidity as local financial institutions converted maturing debt instruments into hard currency. The increased demand for hard currency could not have come at a worse time, as it coincided with the slow period for inflows and the traditional demand spike for foreign currency to purchase Christmas supplies. But one of the single greatest shocks to the foreign exchange market came from the negative ratings released by the three main ratings agencies. But a currency adjustment was not unexpected given the 16.8 percent spike in inflation to September, 2008, which represented an almost 15 percent real appreciation in the currency. And with confidence waning and rising inflation rendering returns on local instruments negative, investors were always going to switch to foreign assets to hedge against any further erosion in real returns. High commodities prices led by oil imports had also influenced a USD 793 million deterioration in the current account balance to June 2008. With foreign investment inflows drying up and the capital market shut, there would have been a shortfall in the supply of foreign inflows required to finance the current account, thus forcing the exchange rate to adjust.

¶42. To address the instability, the Central Bank drew on its arsenal of monetary tools to temper demand pressures. On October 15, the Bank introduced a temporary USD loan facility for institutions affected by margin calls. Two days later the Bank complemented this response by hiking interest rates by up to 1.2 percent. The Bank followed up by facilitating the flow of credit among financial institutions to moderate the pressures in the foreign exchange market, while assisting the continued functioning of the inter-bank credit market. At the same time, the bank sold over USD 400 million

or 20 percent of its stock of Net International Reserves (NIR) to the currency market to shore up supplies, thus, bringing NIR down from USD 2.1B in 2007 to USD 1.7B in December 2008. However, these policy responses were not sufficient to alleviate the demand pressures in the currency market, due to a build up in Jamaica dollar liquidity stemming from maturing debt instruments. To remove this liquidity, the Bank embarked on an even more aggressive monetary program, offering an attractive short term instrument with interest payable at 20.5 percent as well increasing the cash reserve requirement by two percentage points to 11 percent. Interest rates

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were further hiked to as high as 24 percent for one year instruments. These measures were accompanied by an 18-month GOJ USD indexed bond with a coupon of 11.5 percent.

Labor -----

¶43. Jamaica had an estimated labor force of 1.3 million at the end of January 2008, of which 10.2 percent was unemployed. Since 1999 there has been a steady increase in the numbers of people trained in information technology, particularly for call centers, and most of these workers have been absorbed by the growing call center industry. There has also been a jump in the number of university graduates, but the numbers have been depleted by migration to North America and the UK. This has apparently led to a shortage of highly educated and experienced labor as evidenced by the number of advertisements for these workers in the newspapers weekly. On the other hand, there has been a marked increase in the number of work permits issued to expatriates, particularly in the services sectors.

In 2007, a total of 5,927 permits were issued, down 6.3 percent, suggesting a falloff in the demand for permits as some tourism projects are completed.

¶44. Jamaica has an active and strong trade union movement with membership equal to an estimated 20 percent of the labor force, although the movement is considerably weaker now than historically has been the case. Labor relations have traditionally been adversarial due to the level of distrust between workers and management. However, both parties have attempted to enhance the relationship between them by enacting a program for the management of labor cooperation (PROMALCO).

¶45. Jamaica has a number of labor friendly laws including the Employment (Termination and Redundancy Payments) Act, 1974 (as amended) (ETRPA). Under the Act, subject to some exclusions, employees with not less than two years continuous employment, who are dismissed on the grounds of "redundancy" are entitled to redundancy payment. As a general rule, workers with up to ten years continuous employment are entitled to two weeks payment for every year as well the requisite notice pay, while workers with over ten years continuous employment are entitled to three weeks payment plus notice pay (notice pay is the period in which the employee must give notice to their employer before leaving their position except in certain cases such as firing for cause).

¶46. Jamaica has ratified the following ILO Conventions: Right of Association (Agriculture) Convention 1921 - ratified July 8, 1963; Freedom of Association and Protection of the Right to Organize Convention, 1948 - ratified December 26, 1962; and, Right to Organize and Collective Bargaining Convention, 1949 - ratified December 26, 1962. The GOJ is adopting the ILO policy on HIV/AIDS in the workplace. The GOJ, working in conjunction with the ILO and local stakeholders, has also developed a national plan of action on flexibility in working time to guide flexible working arrangements in Jamaica. Under the Work Permit Act, a foreign national who wishes to work in Jamaica must first apply for a permit issued by the Ministry of Labor. The law, which seeks to give first preference to Jamaicans, requires organizations planning to employ foreign nationals to prove that attempts were made to employ a Jamaican national.

Foreign-Trade Zones/Free Ports -----

147. Jamaica's Free Zones Act allows investors to operate solely with foreign exchange in activities such as warehousing, refining, manufacturing, redistribution, processing, assembling, packaging, and services such as insurance and banking. Incentives offered include a 100-percent tax holiday in perpetuity, no import licensing requirements, and exemption from customs duties on construction and raw materials, capital goods, and office equipment. Manufacturing companies operating in the Free Zones are allowed to sell 15 percent of their production on the local market with the approval of the responsible minister. Duty-free zones are primarily found in airports, hotels, and tourist centers and, as with free zone activities, do not discriminate on the basis of nationality. The Kingston and Montego Bay Free Zones provide factory space for the above listed activities. Amendments have also been made to the Jamaica Export Free Zone Act to allow for the establishment of Single Entity Free Zones, with individual companies now designated as free zones. The Kingston Free Zone has recently developed an

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Informatics Park.

For foreign trade zone information investors can contact:

Ms. Beverly Williamson, Senior Vice-President, Business Management and Special Projects, Kingston and Montego Bay Free Zones, 27 Shannon Drive, Kingston 15, Tel: (876) 922-0290-8; 923-5274-5/6021; Fax: (876) 923-6023. 1 Mangrove Way, Montego Bay Free Port, P.O. Box 1377, Montego Bay, Tel:(876) 979-8696; Fax (876) 979-8088; Email:bwillaimson@portjam.com

Ambassador Stewart Stephenson, General Manager, Factories Corporation, 1 King St. Kingston, Tel: (876) 924-9600 -1; Fax: (876) 924-9630; Email: factories@cwjamaica.com

Foreign Direct Investment Statistics f. Foreign Direct Investment Statistics

Table 1: FDI Stock in Jamaica (USD Million)

| | 2001 | 2002 | 2004 | 2005 | 2006 | 2007 |
|---------|-------|-------|-------|-------|-------|-------|
| Inward | 4,040 | 4,409 | 5,783 | 6.335 | 7,264 | 8,580 |
| Outward | 798 | 872 | 1,079 | 1,174 | 1,257 | 817 |

Source: World Investment Report, 2005

Table 2: FDI Stock as a Percent of GDP

| | 2001 | 2002 | 2004 | 2005 | 2006 | 2007 |
|---------|------|------|------|------|------|------|
| Inward | 50.5 | 56.7 | 66.4 | 65.1 | 68.8 | 76.6 |
| Outward | 10.3 | 11.2 | 12.4 | 12.1 | 11.9 | 7.3 |

Source: World Investment Report, 2005

Table 3: Inward FDI (USD Million)

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 |
|-------------------|------|------|------|------|------|------|
| Direct Investment | 479 | 721 | 602 | 683 | 882 | 867 |
| Bauxite Sector | 108 | 150 | 57 | 112 | 336 | 217 |
| JAMPRO | 79 | 201 | n/a | 173 | 315 | 277 |
| Ret. Earnings | 162 | 158 | 178 | 202 | 132 | 177 |
| Divestment | 84 | 0 | 0 | 0 | 0 | 0 |
| Other | 46 | 212 | 367 | 197 | 99 | 196 |

Source: Bank of Jamaica

Table 4: Inward FDI as a percentage of GDP

| | 2001 | 2002 | 2003 | 2004 | 2005 |
|-------------------|------|------|------|------|------|
| Direct Investment | 8.7 | 6.6 | 9.5 | 6.7 | 7.9 |
| Bauxite Sector | 1.2 | 1.5 | 2.0 | 0.7 | 1.3 |
| JAMPRO | 1.6 | 1.1 | 2.6 | 0.9 | 2.0 |
| Ret. Earnings | 1.6 | 2.2 | 2.1 | 2.0 | 2.3 |
| Divestment | 3.3 | 1.1 | 0.0 | 0.0 | 0.0 |
| Other | 1.0 | 0.6 | 2.8 | 3.2 | 2.3 |

Source: Bank of Jamaica

Table 5: FDI Projects Facilitated by Jamaica Promotions by Sector
(USD Million)

| | 01/02 | 02/03 | 03/04 | 04/05 | 05/06 | 06/07 |
|-------------------|-------|-------|-------|-------|-------|-------|
| TOTAL | 289.2 | 462.7 | 105.8 | 153.8 | 233.2 | 265.7 |
| Agriculture | 0.0 | 5.6 | 2.9 | 6.4 | 3.0 | 0.0 |
| Music, Film, Ent. | 9.8 | 9.4 | 14.2 | 12.3 | 15.0 | 0.0 |
| Info Tech. | 186.0 | 277.0 | 45.9 | 11.4 | 64.3 | 55.7 |
| Manufacturing | 56.5 | 85.6 | 31.1 | 0.0 | 11.1 | 38.9 |
| Mining/Chemicals | 0.4 | 30.4 | 0.4 | 4.6 | 16.0 | 1.3 |
| Tourism | 36.5 | 54.6 | 11.1 | 119.2 | 123.9 | 169.8 |

Source: Jamaica Promotions Agency (JAMPRO)

Table 6: FDI Projects Facilitated by JAMPRO by Selected Country of Origin, FY 99-07

| Country and Sector | JDOLS Millions |
|--------------------|----------------|
| BELGIUM | |
| Tourism | 100.0 |
| CANADA | |

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| | |
|------------------------|----------|
| Film | 126.7 |
| Information Technology | 7,068.2 |
| Manufacturing | 546.3 |
| Mining and Chemical | 213.5 |
| CAYMAN ISLAND | |
| Tourism | 78.2 |
| DOMINICAN REPUBLIC | |
| Information Technology | 276.0 |
| Manufacturing | 284.9 |
| GERMANY | |
| Film | 131.3 |
| ITALY | |
| Tourism | 58.3 |
| JAPAN | |
| Film | 14.2 |
| RUSSIA | |
| Film | 228.5 |
| SOUTH AFRICA | |
| Manufacturing | 27.2 |
| SPAIN | |
| Tourism | 26,536.0 |
| ST. LUCIA | |
| Manufacturing | 88.6 |
| TAIWAN | |
| Agriculture | 570.4 |
| TRINIDAD AND TOBAGO | |
| Mineral and Chemical | 1,466.8 |
| Manufacturing | 2,327.0 |
| U.S.A. | |
| Agriculture | 182.0 |
| Film | 1,414.9 |
| Information Technology | 13,508.7 |
| Manufacturing | 2,367.0 |
| Mining and Chemicals | 674.2 |
| Textiles | 102.5 |
| Tourism | 6,378.3 |
| UNITED KINGDOM | |
| Film | 277.9 |
| Information Technology | 9,277.1 |
| Manufacturing | 1,842.3 |
| Tourism | 124.1 |
| MULTIPLE OWNERS | |
| Film | 784.6 |
| Tourism | 1,629.1 |

Source: JAMPRO (does not capture all new investments)

Jamaica has a long history of attracting foreign direct investment from the United States. Among the major U.S. investors operating in Jamaica are:

Accounting

KPMG Peat Marwick
Price Waterhouse-Coopers

Advertising

Lindo Foote, Cone & Belding (FCB)
McCann Erickson (Ja.) Ltd.

Agribusiness and Beverages

ADM Milling Company
Coca Cola Jamaica
Nabisco Brands, Inc.
Pepsi-Cola Jamaica Bottling Plant
Kraft

Banking & Finance

Citibank N.A.

Chemicals/Pharmaceuticals

Alkali Group of Companies

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Antilles Chemical Co.
Cetco Water Laboratories
Diversey-Lever Jamaica Ltd.
Fabcon (Caribbean) Ltd.
Industrial Gases Ltd. (IGL)
Sherwin Williams W.I. Ltd.
Smithkline Beecham International

Computers and Data Processing

Data Key Processors Jamaica Ltd.
Fargo Electronics
IBM World Trade Corp.
Jamaica Digiport Int'l Ltd.
Media Track Inc.
Microsoft
New Horizons Learning Centre
Oceanic Digital Jamaica Ltd.
Productive Business Solutions Ltd.
Standard Data Systems

Consumer Products

Colgate Palmolive
F. W. Woolworth & Co. (Ja.) Ltd.
Gillette Caribbean
Johnson & Johnson
KIWI Brands Caribbean Ltd.
Mead Johnson
Meineke
PriceSmart
Rooms-to-Go

Courier Service

FedEx
UPS
International Bonded Couriers

Insurance

American Home Assurance Co.
Blue Cross Shield of Jamaica

Manufacturing and Assembly

Baywind Manufacturing Ltd.
3-M Interamerica Inc.
Custom Marble & Design Jamaica Ltd.
Econ Industries Inc.
Goodyear (distributor)
Hofmann and Leavy Jamaica Ltd.
Jamaica Bow Co. Ltd.
Jockey International Jamaica Ltd.
Johnson & Johnson
Sealy Mattress Company
Singer Sewing Machine Co. Ltd.
Sportswear Producers Ltd.
West Indies Nutritional Corporation Ltd.
Williamson Dickie Jamaica Ltd.

Mining & Energy

Alcoa Minerals of Jamaica, Inc.
Alumina Partners of Jamaica (ALPART)
Jamaica Energy Partners
Jamaica Private Power Company Ltd.
Kaiser Bauxite Company
Texaco Caribbean Inc.

Project Management

Boyken-Mortimer International LLC

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Tourism and Hospitality Industry

American Airlines
American Express Int'l Inc.
Baskin Robbins
Churches Fried Chicken
Continental Airlines
Hertz (Liberty) Car Rental
Hilton (Kingston) Hotel
Holiday Inn Sunspree Resort
Kenny Rogers Roasters Chicken
Pizza Hut
Popeye's Chicken and Seafood
Renaissance Jamaica Grande Hotel
Restaurants Associates Ltd. - Burger King
Restaurants of Jamaica Ltd. - Kentucky Fried Chicken
Ritz Carlton Hotel
Spirit Airlines
Subway (Ja.) Ltd.
TCBY Frozen Yogurt
Wendy's
Wyndham Rose Hall Hotel
JOHNSON